IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15797 of 2004

Between:

1 Chilukuri Mohan, S/o.C.Pandu, R/o. 1-4-938/5,

Bakaram, Hyderabad rep. by their GPA holder

N. Surender Rao,S/o. N. Pitamber Rao

R/o. flat No.201, Lumbini Enclave, Panjagutta,

Hyderabad.
2 Chilukuri Ghyaneswar, S/o.C.Pandu, R/o. 1-4-938/5,

Bakaram, Hyderabad rep.by their GPA holder

N.surender Rao, S/o.N.Pitamber Rao R/o.flat No.201,

Lumbini Enclave, Panjagutta, Hyderabad.
3 Chilikuri Sures, S/o.C.Pandu, R/o. 1-4-938/5, Bakaram,

Hyderabad rep.by their GPA holder N.surender Rao,

S/o. N.Pitamber Rao R/o. flat No.201, Lumbini Enclave,

Panjagutta, Hyderabad.
4 Chilukuri Ashok, S/o.C.Pandu, R/o. 1-4-938/5, Bakaram,

Hyderabad rep.by their GPA holder N.Surender Rao,

S/o.N.Pitamber Rao R/o. flat No.201, Lumbini Enclave,

Panjagutta, Hyderabad.

..... PETITIONERS

AND

1 The Municipal Corporation of Hyderabad, Tank bund

Road, Hyderabad.
2 The Chief City Planner, Town Planning section, Tank

Bund Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus by declaring the action of the respondents in taking objection No.2 vide letter No.00678/CSC/TP3/2004-2481 dt.12-7-2004, directing the petitioners herein to obtain ULC clearance in respect of property bearing No.1-4-938/5, situated at Bakaram, Hyderabad as illegal, arbitrary and unconstitutional and consequently direct the respondents to accept and consider the building application of the petitioners without insisting for ULC clearance.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for Respondents: MR.RAMA RAO GANTA

The Court made the following :

ORDER:

Heard learned counsel for the petitioners and learned standing counsel for the respondents.

The petitioners earlier moved this court in W.P.No.12764 of 2004 challenging the objection No.2 taken by the Municipal Corporation of Hyderabad for granting construction permission namely, No Objection Certificate from the District Collector, Hyderabad. After hearing the learned Standing Counsel, this court disposed of the said writ petition by order dated 21-7-2004 observing that on petitioners complying objections other than objection No.2 resubmitting the application for building permission, the respondents have to pass orders on the same without insisting for NOC from the Collector as mentioned in Ground No.2 of the impugned proceedings.

Now it is stated that after the disposal of the writ petition when the petitioners resubmitted the application, it was returned by the MCH authorities vide impugned letter dated 00678/CSC/TP3/2004-2481, dated 12-7-2004 stating that there are 8 deficiencies, which have to be complied with. Identically, in deficiency No.2 it is pointed out that the petitioners have not submitted NOC obtained from the District Collector and ULC clearance in respect of the said property. Complaining that in spite of the petitioners complying with all the objections and resubmitting the same

including that of filing of affidavit attested by the Gazetted officer as contemplated under the Urban Land Ceiling Act (for short 'the Act') declaring that total extent of land held by the petitioners does not exceed ceiling limit under the Act in terms of Section 388(d) of the Hyderabad Municipal Corporation Act, petitioner moved this court by way of filing the present writ petition seeking declaration of the action of the respondents in taking objection No.2 vide letter dated 12-7-2004, directing the petitioners herein to obtain ULC clearance in respect of property bearing No.1-4-938/5, situated at Bakaram, Hyderabad as illegal and arbitrary.

It is well settled that while granting building permission, the Municipality cannot insist for obtaining NOC from the Collector and the applications, if otherwise, in order has to be processed for consideration of granting permission.

It is needless to observe that as and when the petitioners comply with all the objections apart from the objection No.2 by resubmitting the application including that of filing of affidavit as contemplated under the Act the respondents are bound to consider the said application.

With the above observation the Writ Petition is disposed of at the admission stage.

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A. Gopal Reddy, J.

3rd September, 2004.

Js.

To

1 The Municipal Corporation of Hyderabad, Tank bund Road, Hyderabad.

2 The Chief City Planner, Town Planning section, Tank Bund Road, Hyderabad.

3 2 CD copies.